



## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket Nos. NHTSA-2021-0043 and NHTSA-2021-0072; Notice 1]**

### **BMW of North America, LLC, and Mazda North American Operations, Receipt of Petitions for Decision of Inconsequential Noncompliance**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petitions.

**SUMMARY:** BMW of North America, LLC (BMW), a subsidiary of BMW AG, Munich, Germany, and Mazda North American Operations (Mazda) have determined that certain replacement seat belt assemblies manufactured for installation in certain BMW, Mini, Rolls-Royce, and Mazda motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies*. BMW and Mazda, collectively referred to as “the petitioners,” filed the appropriate noncompliance reports and subsequently petitioned NHTSA for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of the petitioners’ petitions.

**DATES:** Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

**FOR FURTHER INFORMATION CONTACT:** Jack Chern, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-0661.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:**

BMW has determined that certain replacement seat belt assemblies manufactured by Autoliv, ZF Friedrichshafen AG (ZF), and Joyson Safety Systems (JSS) for installation in certain MY 1990–2021 BMW, MY 2001–2021 Mini, and MY 2003–2021 Rolls-Royce motor vehicles do not fully comply with the requirements of paragraph S4.1(k) of FMVSS No. 209, *Seat Belt Assemblies* (49 CFR 571.209). BMW filed a noncompliance report dated May 5, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. BMW subsequently petitioned NHTSA on May 28, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Mazda has determined that certain replacement seat belt assemblies manufactured by Ashimori Industry Co. Ltd. (Ashimori), and JSS for installation in certain Model Year (MY) 2016–2021 Mazda 2, MY 2014–2021 Mazda 3, and MY 2020–2021 Mazda CX-30 motor vehicles do not fully comply with the requirements of paragraph S4.1(k) of FMVSS No. 209, *Seat Belt Assemblies* (49 CFR 571.209). Mazda filed a noncompliance report dated August 5, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Mazda subsequently petitioned NHTSA on September 1, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C.

30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of the petitioners' petitions is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

## **II. Equipment Involved:**

BMW submitted that an unknown number of replacement seat belt assemblies manufactured by Autoliv, ZF, and JSS and sold to BMW as replacement equipment for installation in the following BMW, Mini, and Rolls-Royce vehicles manufactured between January 1, 1990, and April 28, 2021, are potentially involved:

### BMW Models

- MY 2008–2013 1 Series;
- MY 2014–2021 2 Series;
- MY 1990–2021 3 Series;
- MY 2014–2021 4 Series;
- MY 1995–2021 5 Series;
- MY 2004–2020 6 Series;
- MY 1994–2021 7 Series;
- MY 2019–2021 8 Series;
- MY 2012–2021 X1;
- MY 2018–2021 X2;
- MY 2004–2021 X3;
- MY 2015–2021 X4;
- MY 1999–2021 X5;
- MY 2008–2021 X6;
- MY 2019–2021 X7;

- MY 2014–2021 i3;
- MY 2014–2020 i8;
- MY 1996–2002 Z3;
- MY 2003–2021 Z4; and
- MY 2000–2003 Z8

#### Mini Models

- MY 2001–2021 Hardtop 2 Door;
- MY 2015–2021 Hardtop 4 Door;
- MY 2001–2021 Convertible;
- MY 2008–2021 Clubman;
- MY 2011–2021 Countryman;
- MY 2013–2016 Paceman;
- MY 2012–2015 Coupe; and
- MY 2012–2015 Roadster

#### Rolls-Royce Models

- MY 2003–2021 Phantom;
- MY 2003–2016 Convertible;
- MY 2003–2016 Coupe;
- MY 2010–2021 Ghost;
- MY 2013–2021 Wraith;
- MY 2016–2021 Dawn; and
- MY 2019–2021 Cullinan

Mazda submitted that approximately 7,402 replacement seat belt assemblies manufactured by Ashimori, between April 6, 2014, and July 27, 2021, and JSS between January 12, 2014, and May 6, 2021, are potentially involved. The seat belt assemblies were sold to

Mazda as replacement equipment for installation in certain MY 2016–2021 Mazda 2, MY 2014–2021 Mazda 3, and MY 2020–2021 Mazda CX-30 motor vehicles.

### **III. Noncompliance:**

BMW and Mazda explain that the noncompliance is that the subject seat belt assemblies sourced to their respective dealerships for use or subsequent resale to dealership customers as replacement equipment do not fully comply with all applicable requirements specified in paragraph S4.1(k) and (l) of FMVSS No. 209. Specifically, certain replacement seat belt assemblies were sold without the required accompanying instruction sheet providing information regarding installation of the assembly in a motor vehicle and regarding the proper use and maintenance for the replacement assembly.

### **IV. Rule Requirements:**

Paragraphs S4.1(k) and (l) of FMVSS No. 209 include the requirements relevant to this petition. A seat belt assembly, other than a seat belt assembly installed in a motor vehicle by an automobile manufacturer, shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle. A seat belt assembly or retractor must also be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components.

### **V. Summary of the Petitioners' Petition:**

The following views and arguments presented in this section, “V. Summary of the Petitioners’ Petitions,” are the views and arguments provided by BMW and Mazda. They have not been evaluated by the Agency and do not reflect the views of the Agency. The petitioners describe the subject noncompliance and contend that the noncompliance is inconsequential as it relates to motor vehicle safety.

In their petitions, BMW and Mazda state that the seat belt assemblies can only be obtained through their respective dealers by using their parts ordering system which would

ensure that the correct seat belt assembly is ordered. Both petitioners describe the process of ordering the part through its systems and explain that specific and detailed information needs to be provided to verify and order the correct equipment. The petitioners further explain that the seat belt assemblies can only be installed in their intended application.

Both BMW and Mazda state that the information that would be found on the required accompanying instruction sheets is “readily available” from other sources. BMW explains that the installation instructions are free of charge to consumers who have already purchased replacement seat belt assemblies with missing instructions. Consumers can obtain the instructions, free of charge, from BMW’s local dealer. Mazda explains that its usage and maintenance as well as installation instructions are provided at no charge. For further assistance, vehicle owners and third-party, independent repair facilities can contact Mazda’s Customer Experience Center at 1-800-222-5500, Option #6 for help in accessing seat belt instructions. To expedite assistance, it is recommended to have the full seventeen-digit vehicle identification number ready.

According to Mazda, the subject seat belt assemblies meet the performance requirements, as prescribed by FMVSS No. 209, therefore, “[t]here is no impact to performance, function, or occupant safety.” Further, Mazda states it “is not aware of any customer or field reports” and BMW states that it is “unaware of any complaints” regarding the subject noncompliance. Mazda also states that it has not received any reports requesting installation instructions, which it believes “to be indicative of the availability” of the information from the aforementioned sources.

The petitioners cite the following inconsequential noncompliance petitions that NHTSA has granted in the past which the petitioners claim to support the granting of their petitions for the subject noncompliance:

- FCA US LLC 84 FR 20948 (May 13, 2019);
- Mitsubishi Motors North America, Inc., 77 FR 24762 (April 25, 2012);

- Bentley Motors, Inc., 76 FR 58343 (September 20, 2011);
- Hyundai Motor Company, 74 FR 9125 (March 2, 2009);
- Ford Motor Company, 73 FR 63051 (October 22, 2008);
- Ford Motor Company, 73 FR 11462 (March 3, 2008);
- Mazda North American Operations, 73 FR 11464 (March 3, 2008); and
- Subaru of America, Inc., 65 FR 67471 (November 9, 2000).

BMW states that as this issue became known, BMW Group communicated this topic across all of its brands (BMW, MINI, Rolls-Royce) both internally to the appropriate departments, and externally to BMW Group dealer (service, parts and accessories) departments and personnel. Internally, the parts system now contains prompts to ensure that instructions are provided to a consumer when they purchase a replacement seat belt assembly. Externally, these communications include the steps that dealers must follow to ensure that installation instructions are provided to a consumer during the aftersales purchase process. BMW says that installation instructions are now provided to consumers when they purchase replacement seat belt assemblies.

Mazda explains that it has previously petitioned NHTSA for a similar noncompliance in 2008<sup>1</sup> and that it “remains compliant with processes that were revised in response to the previous petition with existing plants and suppliers.” Mazda states that the subject noncompliances occurred because it opened a new vehicle production plant in Mexico with seatbelt assemblies being supplied by the Mexico-based suppliers Ashimori & JSS which were “entirely new business operations and processes.”

Mazda says that it has now “implemented process changes” to ensure prevention of future re-occurrences, Mazda is taking the following two actions: (i) implementing a new process

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<sup>1</sup> See Mazda North American Operations, Grant of petition for Inconsequential Noncompliance; 73 FR 11464 (March 3, 2008)



within the U.S. and Territories parts distribution centers and (ii) bolstering existing processes at the engineering and supplier levels.

(i) New process in U.S. distribution centers - The new process entails setting up automated alerts to Parts Compliance and Quality Assurance groups whenever new seat belt parts are established. Upon receiving the alerts, both Parts Compliance and Quality Assurance will verify with supplier(s) that the documentation requirement from FMVSS 209 has been followed and checked. Additionally, physical parts will be placed in quarantine until confirmation checks are completed that FMVSS 209 requirements have been met. Once confirmation is completed, parts will then be released for shipment to fill customer orders. The new process accounts for future changes in business operations and/or suppliers, regardless of their global locations, since all parts coming into U.S. and Territory parts distribution centers will be captured under this new process.

(ii) Bolstering existing process - Mazda's Supplier Quality Assurance ("SQA") has put the following measures in place:

- a. Clarification of FMVSS 209 requirements in engineering drawings.
- b. Assure thorough understanding of FMVSS 209 requirement details with suppliers.
- c. Redevelop replacement parts packing process procedures at suppliers by (1) Addition/correction of procedure manual contents, (2) Adding identification labels to parts delivery, and (3) operating training and reinforcement of education.
- d. Strengthened audit procedures with suppliers when developing new service parts, including verifying packing process with evidence.
- e. Redevelopment of logistics contractor procedures to add or correct process procedures, including inspections, to confirm inclusion of installation documents in individual parts packaging.

Mazda believes these additional actions will improve internal processes and ensure compliance with FMVSS 209 to prevent future reoccurrences.

The petitioners conclude their petitions by contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that their respective petitions to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on these petitions only applies to the subject replacement seat belt assemblies that the petitioners no longer controlled at the time they determined that the noncompliance existed. However, any decision on these petitions does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant replacement seat belt assemblies under their control after the petitioners notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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